



**STATE OF NEW JERSEY**

***Board of Public Utilities***

*Two Gateway Center  
Newark, NJ 07102*

**TELECOMMUNICATIONS**

IN THE MATTER OF THE PETITION OF )  
MANHATTAN TELECOMMUNICATIONS )  
CORPORATION OF NEW JERSEY FOR )  
AUTHORITY TO PROVIDE LOCAL )  
EXCHANGE TELECOMMUNICATIONS )  
SERVICES THROUGHOUT NEW JERSEY )

**ORDER OF APPROVAL**

DOCKET NO. TE99120922

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated November 30, 1999, Manhattan Telecommunications Corporation of New Jersey (Petitioner or MTCNJ) filed an amended and restated petition with the Board of Public Utilities (Board) requesting authority to provide all forms of facilities-based local exchange services, including carrier access and interexchange toll services, throughout the State of New Jersey. According to MTCNJ, this Amended and Restated Petition (Petition) reflects changes in facts and circumstances since the filing of its original petition on January 22, 1997 (TE97010046), and totally supersedes and replaces that filing, which was withdrawn by letter dated March 10, 2000. Petitioner submitted responses both to interrogatories and to a Staff questionnaire on January 6, 2000.

According to the Petition, MTCNJ was incorporated under the laws of the State of New Jersey on January 10, 1997 and its principal offices are located at 44 Wall Street, 14<sup>th</sup> Floor, New York, New York 10005. Petition at 2-3. Petitioner submitted copies of its Articles of Incorporation and its New Jersey Certificate of Good Standing. Id. at 3, Exhibit A. MTCNJ is a wholly owned subsidiary of MetTel, a Delaware Corporation, also located in New York City at 44 Wall Street 14<sup>th</sup> Floor. MetTel's Delaware Certificate of Good Standing is attached to the Petition as Exhibit B. According to the Petition, MetTel is a certificated local exchange carrier in New York with an executed interconnection agreement with New York Telephone Company. Id. at 3. As of November 30, 1999, MetTel had approximately 59,000 residential local exchange customers in New York. Id. at 4. According to the Petition, MCTNJ was formed to provide all forms of telecommunications services, including resold and facilities-based local exchange and interexchange services. Id. at 6. MCTNJ also stated that neither MCTNJ nor any of its affiliates have been denied authority to provide telecommunications services in any State. In addition MCTNJ stated that it has not had any certification revoked or limited in any way and currently it has no pending civil, criminal or administrative action against it. Ibid. In its January 6, 2000, responses to the Staff questionnaire, MCTNJ stated that its parent corporation had approximately 61,000 customers and 140 employees in New York. Responses at 2. In addition, MCTNJ stated that on December 14, 1999 it had begun negotiations with Bell Atlantic-New Jersey, Inc. for an interconnection agreement.

In its Petition, Petitioner advised that it seeks authority to provide facilities-based local exchange telecommunications services to business and residential customers throughout New Jersey. Petition at 5. Petitioner stated that it intends to provide a full range of facilities-based local exchange services, which may include, but will not be limited to the following: a) Internet Services; b) Local Exchange Services, c) Long Distance Services, and d) Switched Access Services. Id. at 5-6.

By letter dated May 2, 2000 Petitioner requested a waiver of N.J.A.C. 14:1-4.3 which requires that its books and records be maintained in accordance with the Uniform System of Accounts (USOA). Petitioner advised that its records will be maintained in accordance with Generally Accepted Accounting Principles (GAAP). Petitioner requested a waiver pursuant to N.J.A.C. 14:1-5.15(a), which provides for the filing of petitions for authority to keep books and records outside the State of New Jersey. Petitioner requested that all books, records, documents and other writings incident to the conduct of business of Petitioner in the State of New Jersey be kept at Petitioner's corporate offices in New York, New York. Id. at 7-8. Petitioner stated that a requirement of storage of its books and records in the State of New Jersey would place an undue financial burden on Petitioner as it competes with other local exchange carriers in the State of New Jersey. Petitioner also stated upon written notice from the Board it will produce its books and records at such time and place within New Jersey as the Board may designate, and will pay any reasonable expenses for investigation or examination of the records. Ibid.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Id. at 2, 7. Petitioner also asserted that approval of this Petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. In addition, Petitioner stated that approval of its petition will enhance the telecommunications infrastructure in the State of New Jersey and will facilitate economic development. Ibid.

With regard to its managerial qualifications, MCTNJ stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Id. at 4. Petitioner submitted the professional biographies of its key personnel which, according to MCTNJ, are well qualified to execute its business plan, having extensive managerial and technical experience in the telecommunications industry. Petition at 4, Exhibit C. Petitioner advised that it intends to use a combination of its own equipment, services and facilities, and those of other entities, when providing services. Id. at 5. According to the petition, MCTNJ's customers will remain on the ILEC network and continue to have 911 and 0-dialed calls directed to ILEC Public Safety Answering Points via the ILEC. Id. at 6.

In support of its financial qualifications, Petitioner stated in the interrogatory responses submitted by letter dated January 6, 2000 that it will rely on the financial resources of its affiliate, MetTel and on vendor financing, to provide the initial capital investment and funding for its New Jersey operations. Responses to Staff questionnaire at 2, 5. In support of its financial qualifications, Petitioner submitted financial statements of MetTel which included balance sheets and statement of operations for 1996, 1997, 1998 and the period ending September 1999. See Responses to Staff letter dated December 29, 1999.

By letter dated February 23, 2000, the New Jersey Division of the Ratepayer Advocate advised that it is satisfied that MTCNJ's Petition is consistent with the public interest, convenience and necessity, and recommended Board approval.

## DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996. P.L. 104-104, 110 Stat. 56, codified in scattered sections of 47 U.S.C. §151 et seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to a demonstration of financial, technical and managerial integrity.

In considering this application, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature, declaration that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services, at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed MCTNJ's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources which are necessary to provide telecommunications services, in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange and interexchange telecommunications services in New Jersey subject to approval of its tariffs and submission of its own pro forma financials for the first 2 years of operation. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board. Regarding the Petitioner's request for a waiver of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief, pursuant to N.J.A.C. 14:1-1.2, from its requirements to maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or

charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records under the USOA and within New Jersey.

DATED: 6/22/00

BOARD OF PUBLIC UTILITIES  
BY:

(signed)  
HERBERT H. TATE  
PRESIDENT

(signed)  
CARMEN J. ARMENTI  
COMMISSIONER

(signed)  
FREDERICK F. BUTLER  
COMMISSIONER

ATTEST:

(signed)  
EDWARD D. BESLOW  
ACTING BOARD SECRETARY